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6 Attorneys for Third Party
7 DELL INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 CISCO SYSTEMS, INC.,

13 Plaintiff,

14 vs.

15 ARISTA NETWORKS, INC.,

16 Defendant.
17

Case No. 5:14-cv-05344-BLF (NMC)

**DECLARATION OF RODERICK M.
THOMPSON ON BEHALF OF THIRD
PARTY DELL INC. IN SUPPORT OF
ARISTA NETWORK, INC.'S
ADMINISTRATIVE MOTION TO FILE
DOCUMENTS UNDER SEAL (DKT. NO
378)**

Judge: Hon. Beth Labson Freeman

18
19 I, Roderick M. Thompson, declare as follows:

20 1. I am a partner with the firm Farella Braun + Martel LLP, counsel for non-party
21 Dell Inc. ("Dell") with respect to the third-party subpoena served by defendant Arista Networks,
22 Inc. ("Arista") on Dell in the above-captioned matter. I am a member in good standing of the
23 State Bar of California and am admitted to practice before this Court. I have personal knowledge
24 of the facts set forth in this Declaration and, if called as a witness, could and would testify
25 competently to such facts under oath.

26 2. I file this declaration in support of Arista's Administrative Motion to File
27 Documents Under Seal (Dkt. No. 378), which moves the Court for an order to file under seal the
28 following items related to non-party Dell:

- a. Certain portions of Defendant Arista's Opposition to Cisco's Motion for Partial Summary Judgment (the "Opposition");
- b. Certain portions of the Declaration of John R. Black Jr. in Support of the Opposition ("Black Decl.");
- c. Certain portions of the Declarations of Cate M. Elsten in Support of the Opposition;
- d. Certain portions of the Declaration of William M. Seifert in Support of the Opposition; and
- e. Certain portions of Exhibit 5 to the Declaration of Ryan Wong in Support of the Opposition (Excerpts from the Transcript of the 30(b)(6) Deposition of Dell, whose corporate witness was Gavin Cato) ("Wong Decl. Ex. 5").

3. In this declaration, I explain why certain material cited in **Exhibit 5 to the Wong Declaration (Dkt. No. 378-8)** and **Exhibit 1 to the Black Declaration (Dkt. No. 381-1)** are sealable pursuant to Civil Local Rule 79-5 and provide additional facts in support of Arista's Administrative Motion to File Documents Under Seal to the extent that the administrative motion pertains to Dell.

4. Specifically, Exhibit 5 to the Wong Declaration and page 142 of the Black Declaration quote and reference to the transcript of the deposition of Mr. Cato as Dell's corporate designee pursuant to a subpoena served on Dell by Arista. The deposition transcript reflects substantive discussion of the identity and specific technical requirements of a specific customer of Mr. Cato's previous employer.

5. I defended Mr. Cato's deposition in this action. During the deposition, when Arista's counsel asked Mr. Cato to identify the specific customer of his previous employer (immediately prior to his joining Dell in 2013) that had specific requirements concerning certain CLI commands, I requested an opportunity to confer with Mr. Cato before he answered the question. After doing so, I specifically designated his response to Arista's counsel's question, including the identity of the customer, as highly confidential, attorney's eyes only under the protective order. Wong. Decl. Ex. 5 at 47:15-49:21.

6. I understand that “compelling reasons” may exist to seal information in court filings that contain or discuss information about an entity’s confidential “business performance, structure, and finances that could be used to gain unfair business advantage against them,” *Schwartz v. Cook*, No. 15-cv-03347-BLF, 2016 WL 1301186, at *2 (N.D. Cal. Apr. 4, 2016), as well as confidential information about an entity’s “business practices, recruitment efforts, and discussions regarding potential partnerships with other product manufacturers,” *Koninklijke Philips N.V. v. Elec-Tech International Co., Ltd.*, No. 14-cv-02737-BLF, 2015 WL 581574, at *1-*2 (N.D. Cal. Feb. 10, 2015).

7. The identity of the customer identified by Mr. Cato during his deposition qualifies as confidential “business practices ... and discussions regarding potential partnerships.” The one-word identity of the customer in question appears three times, twice in Exhibit 5 to the Wong Declaration and once in Exhibit 1 to the Black Declaration:

a. **Wong Decl. Ex. 5 (Dkt. No. 378-8) – page 50, line 6 and page 54, line 12**

b. **Black Decl. Ex. 1 (Dkt. No. 381-1) – page 142, paragraph 298**

8. To assist the Court in locating the three instances where this one-word customer identification appears, I have attached to this declaration as **Exhibit A** a version of Exhibit 5 to the Wong Declaration, with the two instances of the customer’s name redacted in black. I have also attached to this declaration as **Exhibit B** an excerpt from Exhibit 1 of the Black Declaration with the one instance of the customer’s name redacted in black.

9. For these reasons, there are compelling reasons to seal these three instances of the one-word identification of the customer in the Court filings identified in paragraph 7 of this declaration.

Executed on July 18, 2016, at San Francisco, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

/s/ Roderick M. Thompson
Roderick M. Thompson